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SUBJECT: UGANDA: REPORT ON PREPARATIONS FOR THE 2011 ELECTIONS

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11. (SBU) Summary: This cable responds to the Congressional requirement to monitor preparations for Uganda's 2011 elections and actively promote the independence of the Electoral Commission, an accurate and verifiable voter registry, the announcement and posting of results at polling stations, freedom of movement and assembly, press freedoms, and the security and protection of presidential candidates. The mandate requires a report to the Committee on Appropriations detailing actions taken by the Ugandan government to address these concerns within 90 days of passage of the legislation and every 120 days thereafter until 30 days after the February 2011 election. This report covers events from January 1 to February 10. The Ugandan government maintains that the Electoral Commission is non-partisan in accordance with the Ugandan Constitution. A parliamentary by-election on January 25 in central Uganda further underscored concerns about the voter registry and tabulation of polling station results. Police and government officials limited opposition parties' freedom of movement and assembly, and arrested opposition activists. The government also limited press freedoms by intimidating, arresting, and charging journalists with media-related offenses. We continue to raise these concerns with the Ugandan government (refs. A and B), the Electoral Commission (ref. C), and donor partners. End Summary.

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Independence of the Electoral Commission  
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12. (SBU) Questions of independence and organization have weakened the Electoral Commission's (EC) credibility and effectiveness. Article 60(1) of the Ugandan Constitution invests the President with the power to appoint the Commission's seven Commissioners, pending Parliamentary approval. Article 62 states that the Commission "shall be independent and shall, in the performance of its functions, not be subject to the direction or control of any person or authority." President Museveni re-appointed six of the EC's seven Commissioners to new seven year terms in August 2009. Museveni replaced the EC's one retiring Commissioner with a previously unknown rural schoolteacher. In a hastily arranged hearing on August 12, parliamentarians ratified Museveni's appointments. Opposition leaders complained that the ruling National Resistance Movement (NRM), which controls more than two-thirds of Parliament, withheld information on the appointments until the last moment to deliberately frustrate the opposition's ability to review Commissioners' qualifications (ref. D).

13. (SBU) Opposition parties belonging to the Inter-Party

Cooperation (IPC) coalition have expressed no confidence in the Commission, based in large part on the Commission's management of the flawed 2006 elections, and are demanding new Commissioners. However, in accordance with the Constitution, only the President can replace Commission members. In 2009, opposition parties initiated two court cases challenging the competency and qualifications of the Commissioners and the Commission's Secretary. Both cases are pending. The EC's opaque budget (ref. E), botched procurements (ref. F), and unclear priorities have further undermined its credibility. In a meeting on February 8, the Commission was unable to respond to U.S. Mission requests for an updated budget, a time line for revising the voter registry, a time line for the polling re-organization exercise now underway, or a revised roadmap for the 2011 election cycle.

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#### Transparency of Voter Registry and Polling Results

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14. (SBU) The January 25 by-election in Budiope sub-county to replace a recently deceased Member of Parliament highlighted concerns with the Electoral Commission's management of the voter registry and the tabulation of results at polling stations. Voter registries sold by the Commission to the opposition Forum for Democratic Change (FDC) party on January 21 differed from the official registries delivered to Budiope poll workers on election day. Citing a discrepancy of approximately 2,800 names, the FDC accused the Electoral Commission of deliberately deleting FDC supporters from the registry. However, the last minute deletions appeared to be a function of the Electoral Commission's own disorganization and not an attempt to disenfranchise specific voters or parties. On February 9, the FDC called on the Electoral Commission to post the voter registry on line to ensure equal and transparent access for all stakeholders.

15. (SBU) The Ugandan Constitution and 2005 Parliamentary Elections Act require presiding officers at polling stations to "announce" results at polling stations before assembled poll workers, political party agents, and observers. Presiding officers are not required to post results. There were no reports of failures to announce results at polling stations in Budiope. The Electoral Commission voided results from one polling station due to fraud and ballot stuffing. Three individuals were arrested, charged with electoral malpractice, and released on bail. The official participation rate in Budiope was 51% - which is high for a relatively low profile by-election. Remarkably, almost 20% of polling stations in Budiope reported participation rates of 88% or higher, with several stations reporting participation rates of 99 to 100%. Observers received reports of collusion between some poll workers and party agents, and recorded one attempt to bribe a local observer. Seemingly inflated participation rates, coupled with scattered reports of electoral malfeasance, suggest fraud. Since the ruling National Resistance Movement (NRM) candidate in Budiope won with 75% of votes cast, these irregularities likely did not affect the overall outcome but would have impacted a closer and more contested election.

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#### Freedom of Movement and Assembly

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¶6. (SBU) Authorities continued to limit opposition parties' and leaders' freedom of assembly and movement. Police and government officials used provisions of the Police Act, which require opposition parties to inform the Inspector General of the Police of any assembly involving 25 persons or more (and were previously declared unconstitutional by the Constitutional Court), to disrupt opposition events and rallies. On December 31, the IPC informed the Inspector General of Police it would conduct a "series of civil action activities" from January 4 onward to protest government repression of the media, the composition of the Electoral Commission, and government closure of the Buganda Kingdom's Central Broadcasting Station (CBS) radio station. The IPC informed police that these activities, including a march through Kampala to Parliament, "shall be peaceful and within the confines of the law." On January 3, police deployed heavily throughout Kampala, and on January 4 police in riot gear temporarily prevented opposition leaders from entering IPC offices. The Inspector General of Police said opposition parties failed to notify police in a timely manner and that opposition tactics were intended to cause "confusion" and "disorder" in Kampala. No civil action activities occurred.

¶7. (SBU) On January 18, police arrested 35 female IPC members who attempted to enter the heavily guarded Electoral Commission one by one to demand the Electoral Commission Chairman's resignation. The women wore black t-shirts proclaiming "Women for Peace" and sat in front of the Commission after they were denied entry. Several of the women accused the police of mistreatment during their arrest and subsequent imprisonment, claiming that police used excessive force, forced some women to undress, and placed some in police holding cells with men overnight. Authorities charged the women

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with illegal assembly, trespass, and belonging to an unlawful society. They were released on bail on January 19 and instructed to return to court on March 3.

¶8. (SBU) According to local media reports, police in Masindi disrupted a rally for FDC President Kizza Besigye on January 25. On January 27, police arrested Josephine Babirye, a member of the opposition Uganda People's Congress (UPC) party, for holding up placards in front of the UPC headquarters. Angered by the NRM's January 26 celebration of "Liberation Day", Babirye displayed posters belittling Liberation Day and the NRM. Babirya told local press she was prompted to act after watching NRM Liberation Day festivities on television. The government charged Babirya with sedition on January 28 and released her on bail. Babirya's case will be heard on February 12.

¶9. (SBU) Authorities impeded the movements of opposition leaders. On January 28, police in Kagadi near Lake Albert prevented UPC presidential aspirant Olara Otunnu from visiting a local hospital and other locations. Police claimed Otunnu failed to inform authorities of his itinerary in a timely manner. Otunnu accused police of blocking his movements to prevent him from highlighting the poor quality of Kagadi's public hospital. In January, administrative and legal delays forced FDC president Kizza Besigye to postpone travel to the U.S. pending the return of his passport, which was confiscated by authorities in 2005 following Besigye's indictment on treason and rape charges. Uganda's High Court dismissed the rape allegations in March 2006. Besigye's lawyer petitioned the Constitutional Court to dismiss the still pending treason charge on February 1, 2010.

¶10. (SBU) Besigye and others whose passports have been confiscated due to pending cases of sedition, treason or other charges must apply for the return of their travel documents before traveling abroad (ref. G). The invasive application process restricts freedom of movement, limits privacy, and frequently forces

applicants to delay or cancel scheduled international travel.

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Press Freedoms  
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¶11. (SBU) Freedom of the media continued to deteriorate. On January 6, the Ugandan Human Rights Network for Journalists (HRNJ) declared 2009 "the worst year" for Ugandan journalists since press restrictions were lifted in the early 1990s. According to HRNJ, 18 journalists were fired in 2009 due to government pressure and more than 80 were deprived of their rights. In January, police repeatedly questioned two Daily Monitor journalists - Angelo Izama and Henry Ochieng - for a December 20 article reporting on the NRM's civilian paramilitary training program, known locally as "mchaka-mchaka" (ref. H). On February 3, authorities charged Izama and Ochieng with criminal libel for a December 19 article, also on the mchaka-mchaka, which briefly compared President Museveni to former Philippines dictator Ferdinand Marcos.

¶12. (SBU) Another Monitor journalist received threatening telephone calls related to a January 3 story on corruption in Uganda's nascent oil sector, and the Monitor's Managing Editor Daniel Kalinaki noted in a January 21 editorial that "close to 100 journalists in Uganda today face some form of charge or sanction by the government." On February 8, Kalinaki and Ochieng appeared in court to respond to forgery charges stemming from their publication of a letter from President Museveni to local leaders in western Uganda in August 2009 (ref. I). The government alleges that Kalinaki and Ochieng altered the text of the letter, a charge the Monitor journalists have denied. The court extended their bail and adjourned the hearing until March 29.

¶13. (SBU) On January 18, the Constitutional Court heard a petition

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filed by journalist Andrew Mwenda challenging Uganda's sedition laws, arguing that sedition charges infringe on constitutional rights of freedom of expression. Mwenda has more than 20 counts of sedition and other media related offenses pending against him. A decision in Mwenda's challenge to the sedition laws is still pending. Several rural radio stations denied FDC president Besigye access to the airwaves, in some cases even after the FDC paid for airtime. On January 30, an FM station in northern Ugandan prevented Besigye from appearing on air. Opposition leaders alleged that Besigye was also prevented from appearing on local media outlets in Hoima and Kapchorwa. On February 8, the Electoral Commission told the U.S. Mission that there is little the Commission can do in this regard as 99% of Uganda's estimated 140 radio stations are privately owned.

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Security and Protection of Candidates  
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¶14. (SBU) The 2005 Presidential Elections Act requires the Electoral Commission to "ensure that the relevant organs of the state provide during the entire campaign period (a) protection of each candidate: (b) adequate security at all meetings of candidates." This requirement applies to presidential candidates

who have been nominated and registered by their parties, a process which will occur later this year. The UPC party filed a complaint with police in Gulu following the December 21 auto mishap between presidential aspirant Olara Otunnu and the Presidential Guard Brigade (ref. J). According to police in Gulu, an investigation is on going.

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U.S. Engagement on Elections in Uganda  
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¶15. (SBU) The U.S. Mission discusses concerns about the 2011 elections with the Ugandan government, the Electoral Commission, donor partners, opposition parties, and civil society organizations on a regular basis. The U.S. Mission has suggested ways the Electoral Commission could increase the transparency of the voter registry and voting processes, and is working with donor partners to formulate a framework of common indicators or "tripwires" as a metric for assessing the electoral process and signaling when or if electoral practices deviate from democratic norms. Mission officers joined with European and civil society colleagues to observe parliamentary by-elections in Budiope on January 25, and will observe a second by-election in Mbale on February 16 as part of our effort to monitor Uganda's preparations for the 2011 elections. Approximately \$2.2 million, or 0.7% of USAID's FY2009 assistance to Uganda, is dedicated to promoting democracy and good governance.  
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